

This letter rescinds part of General Information Letter ST-99-0128 and clarifies that motorcycles or motor driven cycles are subject to liability under the Automobile Renting Occupation and Use Tax Act. See 86 Ill. Adm. Code 180.101. (This is a GIL).

April 18, 2001

Dear Xxxxx:

This General Information Letter is being sent to you to rescind part of a General Information Letter (ST-99-0128) that was sent to you on April 22, 1999. A General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In our previous letter we discussed the definition of "automobile" for purposes of the Automobile Renting Occupation and Use Tax Act. See 35 ILCS 155/2 (1998 State Bar Edition). In that letter we stated that, "this definition does not include motorcycles or motor driven cycles." This statement is incorrect. The Act applies to automobiles as the term "automobile" is defined by that Act. Section 2 of the Act defines "automobile" as follows:

"'Automobile' means any motor vehicle of the first division, a motor vehicle of the second division which is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division which is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code." 35 ILCS 155/2.

Section 1-146 of the Illinois Vehicle Code defines the term "motor vehicle" as :

"Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power and motorized wheelchairs. For this Act, motor vehicles are divided into two divisions:

First Division: Those motor vehicles which are designed for the carrying of not more than 10 persons.

Second Division: Those motor vehicles which are designed for carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division." 625 ILCS 5/1-146.

Motorcycles and motor driven cycles fall within the definition of a "motor vehicle" under the Vehicle Code (they are a First Division motor vehicle) and are thus encompassed with the definition of "automobile" under Section 2 of the Act. As a result, they are subject to tax under the Act. This policy is codified in regulations governing the Act. See 86 Ill. Adm. Code 180.101. We are sorry if this error has caused you or your members and inconvenience.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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TDC:msk
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